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Robert J. Feilbogen

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EXAMINER

BORLINGHAUS, JASON M

ART UNIT

PAPER NUMBER

3693

NOTIFICATION DATE

DELIVERY MODE

01/22/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 09/871,569	Applicant(s) FEILBOGEN ET AL.	
	Examiner JASON M. BORLINGHAUS	Art Unit 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 01 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 20 – 33, 37 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boesch (US Patent 5,897,621) in view of Mancini (US Patent 7,024,383).

Regarding Claim 20, Boesch discloses a hedging processor (server) for monitoring business transactions for goods of commerce (product) of a customer in a first type of currency (first currency associated with the customer user). (see col. 3, line 65 – col. 4, line 17) comprising:

- at least one input (network) for receiving business transaction information regarding a business transaction including purchases or sales of goods by a customer. (see col. 3, line 50 - col. 4, line 17);

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- for receiving hedging rules (instructions) from the customer and set by the customer, wherein said hedging rules (instructions) define a first user-specified event (acceptable risk range) that triggers a processor to initiate an exchange of the customer's first type of currency (first currency associated with the customer user) to a second type of currency (second currency associated with the merchant) on the customer's behalf. (see col. 3, line 50 – col. 4, line 17; col. 7, lines 30 – 59; col. 9, lines 11 – 52);
- for receiving pricing rules (instructions) from the customer and set by the customer, wherein said pricing rules define a second user-specified event (customer request) to update foreign currency prices (exchange rate) of said goods. (see col. 11, lines 23 – 43);
- for receiving public price information (exchange rate data) from at least one of a plurality of foreign exchange (FX) rate providers or FX liquidity providers. (currency brokers). (see col. 8, line 59 – col. 9, line 3);
- a processor operably arranged with said at least one input (network), the processor containing a computer readable program code for generating hedging instruction information to provide instructions to at least one of the plurality of FX rate providers or FX liquidity providers (currency brokers) to exchange (convert) from said first type of currency to said second type of currency. (see col. 14, lines 2 – 24);
- based on said hedging rules and the occurrence of the first user specified event (acceptable risk ranges). (see col. 9, lines 4 – 52); and

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- for generating public price information (exchange rate data) to provide updated foreign currency prices of said goods to the customer, based on said pricing rules. (see col. 8, line 49 – col. 9, line 3; col. 11, lines 6 – 43).

Boesch does not explicitly teach a processor processing business transaction information regarding **a plurality of business transactions**, although Boesch does not limit itself to selling only one item or only performing one iteration of the disclosed methodology.

Mancini discloses a processor processing business transaction information regarding a plurality of business transactions (aggregated transactions). (see abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Boesch by incorporating the ability to handle a plurality of business transactions, as disclosed by Mancini, rather than handling a solitary business transaction, allowing the system to handle multiple business transactions.

Regarding Claims 21 - 24, Boesch discloses a processor wherein:

- said transaction information is received via at least one transaction data stream (transmission of transaction amount), wherein said public price information is generated as at least one price data stream (exchange rate data), and wherein said hedging instruction information (approval/disapproval) is generated as at least one hedging instruction data stream. (see col. 7, lines 40 – 47; col. 8, lines 49 – 58; col. 9, lines 4 – 52);

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- said at least one input further receives, from one of the plurality of FX rate providers or a foreign exchange liquidity provider (currency broker, bank or financial institution), market rate information (exchange rate data) having current market foreign exchange rates (updated exchange rate data), including rates for exchanging said first type of currency to said second type of currency and vice-versa. (see col. 8, line 49 – col. 9, line 3);
- said public price information (displayed exchange rate data displayed to customer) is further based on the received market rate information (exchange rate data received from currency broker, bank or financial instrument). (see col. 8, line 49 – col. 9, line 3; col. 11, lines 6 – 43); and
- said market rate information (exchange rate data) is received via at least one market rate data stream. (see col. 8, line 49 – col. 9, line 3).

Regarding Claims 25 – 28, Boesch discloses a processor wherein:

- said pricing rules (business rules) further define when to update said foreign currency prices (exchange rate data) of said goods, based on at least one of after the expiration of a predetermined time interval (frequency and timing of updates is based on business rules). (see col. 8, line 49 – col. 9, line 3);
- said pricing rules (business rules) further define rules to update said foreign currency prices (exchange rate data) of said goods, based on either the actual current market rate (exchange rate data) or said actual

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current market rate adjusted by a predetermined amount. (see col. 8, line 49 – col. 9, line 3);

- said hedging rules (programming) further define when to exchange said first and second types of currency, based on at least one of when the current market rate deviates from the market rate information by at least a first predetermined percent (fluctuations in exchange rate). (see col. 9, lines 11 – 51); and
- said hedging rules (programming) further define an amount to exchange said first and second types of currency, based on either a total accumulated revenue of said first type of currency. (see col. 8, lines 49 – 58).

Regarding Claims 29 – 33, Boesch discloses a processor wherein:

- said computerized system (server) is configured within at least one of a local network (see col. 3, line 50 – col. 4, line 17);
- said computerized system is configured within an application service provider (server), remote from said customer (connected to merchant/customer computer via network). (see col. 3, line 50 – col. 4, line 17);
- the at least one output (network) operably arranged with the processor for forwarding at least one hedging instruction data stream (data) to at least one of the plurality of FX rate providers or FX liquidity providers (currency brokers). (see col. 14, lines 2 – 24);

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- said market rate data stream (exchange rate) is received from said FX provider of said customer. (see col. 8, line 49 – col. 9, line 3); and
- the plurality of FX rate providers includes a multi-bank website, an individual bank website, a non-bank website offering a live market foreign exchange rate stream and an exchange service based on said price stream, or any combination thereof (currency broker, bank or financial institution). (see col. 14, lines 2 – 14).

Regarding Claims 37 and 54, such claims recite substantially similar limitations as claimed in previously rejected claims. Such claim limitations are therefore rejected using the same art and rationale as previously utilized.

Claims 34 – 36 and 38 - 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boesch and Mancini, as applied to Claims 20 above, and further in view of Pool (US Patent 6,460,020).

Regarding Claims 34 - 35, Boesch does not explicitly teach a system wherein said transaction data stream is received from a business-to-business (B2B) portal, wherein said B2B portal is a medium to allow said customer to buy or sell said goods; nor wherein said B2B portal is at least one of an online marketplace, a vendor website, a purchaser website, or any combination thereof. However, Boesch discloses a method wherein said transaction data stream is received from a merchant and a customer connected to the Internet, wherein said Internet is a medium to allow said customer to

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buy or sell said goods (as customer shops over the network), and such a portal would be an online marketplace. (see fig. 1; col. 13, lines 5 – 27).

Pool discloses a system wherein:

- said transaction data stream (electronic purchase orders) is received from a business-to-business (B2B) portal (an electronic catalog stored on a publicly accessible database), wherein said B2B portal is a medium (internet/intranet) to allow said customer to buy or sell said goods (ordering system). (see col. 1, lines 9 – 49); and
- said B2B portal is at least one of an online marketplace (electronic merchandise catalogue and ordering system for use on the internet/intranet). (see col. 1, lines 9 – 49).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Boesch and Mancini by incorporating a B2B portal, as disclosed by Poole, allowing for a hedging methodology that oversees business transactions to be incorporated into a portal that enables the conducting of business transactions.

Regarding Claim 36, Boesch discloses a system further comprising the step of forwarding the hedge instruction data streams (approval/disapproval) and the public price data streams (exchange rate data) as an electronic ticket (data) to at least one of said customer. (see col. 11, lines 49 – 64; col. 13, lines 35 – 60).

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Regarding Claims 38 - 53, such claims recite substantially similar limitations as claimed in previously rejected claims. Such claim limitations are therefore rejected using the same art and rationale as previously utilized.

Response to Arguments

Applicant's arguments filed 1/09/09 have been fully considered but they are not persuasive.

§103 Rejection

Applicant argues that the prior art (Boesch) neither teaches nor suggests "generating hedging instruction information to provide instructions to at least one of FX rate providers or FX liquidity providers to exchange a customer's first currency to a second currency."

Applicant states:

Rather, the seller and buyer complete a "virtual settlement" of the transaction where: "upon approval of the transaction, the customer account is debited by the amount in the customer selected currency A(CSC). The merchant account is credited with the agreed price in the merchant accepted currency P(MAC). This amount and price were known by and agreed to by the customer user 203 and the merchant user 303. Thus, there is no uncertainty as to the amount or currency to be paid by customer user 203 or the price or currency to be received by merchant user 303." Boesch, col. 10, lines 56-64. This process is different than "actual settlement" of the transaction which includes "converting real funds in an amount equal to the amount in the customer selected currency into real funds in the merchant accepted currency." Boesch, col. 6, lines 25-30. (see Applicant's Arguments, p. 11).

Examiner asserts that the "virtual settlement" of Boesch is an exchange of a customer's first currency to a second currency – exchange from customer selected

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currency to merchant selected currency. While Applicant argues that "virtual settlement" is different than "actual settlement," Boesch discloses that the "virtual settlement" inevitably proceeds to "actual settlement." To this end, Boesch states:

Actual settlement may occur contemporaneously with the approval of the transaction or it may be deferred. As is described below, it is the entity charged with performing the actual settlement who bears the risk.

We prefer that the server 100 perform actual settlement of the transaction. Therefore, according to this aspect of the present invention, the server 100 also has its own server accounts. The server accounts are in currencies corresponding to the currencies of the customer and merchant accounts. The server accounts represent real cash, credit, etc. corresponding to the electronic funds stored in the customer and merchant accounts.

To perform actual settlement, the server 100 may transmit data to a currency broker, bank or financial institution to enable actual settlement. For example, the server 100 may transmit data identifying the server account and the amount in the customer selected currency A(CSC) so that the entity can convert real funds in an amount equal to the amount in the customer selected currency into real funds in the merchant accepted currency. (see col. 13, line 61 – col. 14, line 14).

Applicant argues that the prior art (Boesch) neither teaches nor suggests "receiving hedging rules from the customer and set by the customer, wherein said hedging rules define a first user-specified event to initiate an exchange on the customer's first type of currency to a second type of currency of the customer's behalf."

Boesch states:

Approval of the transaction by the server 100 is preferably based upon predetermined criteria. These criteria may be established by any of the parties to the transaction or a third party. For example, we prefer that the server 100 approve the transaction if the amount in the merchant accepted currency A(MAC) equals or exceeds the price in the merchant accepted currency P(MAC). (see col. 9, lines 4 – 10).

Boesch discloses the receipt of hedging rules (predetermined criteria) wherein said hedging rules define a user-specified event (satisfaction of the predetermined

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criteria) to initiate the currency exchange. The hedging rules (predetermined criteria) can be set by “any of the parties to the transaction” which includes the customer.

All argument(s) and/or rationale(s) set forth above with respect to earlier addressed claim(s), Claim(s) 20, are hereby incorporated and/or reapplied so as to apply to Claim(s) 37, 38 and 54 where applicable.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON M. BORLINGHAUS whose telephone number is (571)272-6924. The examiner can normally be reached on Monday - Friday; 9am - 5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James A. Kramer can be reached on (571)272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason M Borlinghaus/
Primary Examiner, Art Unit 3693
January 18, 2010